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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

SECURITIES AND EXCHANGE
COMMISSION.

Plaintiff,

V.

DALE SWANBERG,

Defendant.

CASE NO. 3:22-CV-04859-WHO

**JOINT MOTION FOR RELIEF FROM CASE
MANAGEMENT SCHEDULE AND TO AMEND
CASE MANAGEMENT SCHEDULE;
[PROPOSED] ORDER**

JUDGE: Hon. William H. Orrick

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1 Pursuant to L.R. 7 and L.R. 16-2(d), and for the reasons set forth herein, Plaintiff Securities and
 2 Exchange Commission (“SEC”) and Defendant Dale Swanberg (“Mr. Swanberg”) (collectively the
 3 “Parties”) respectfully move this Court for relief from the fact discovery deadline set forth in this Court’s
 4 Order dated August 28, 2024 [ECF No. 64] (“Fourth CMC Order”). Specifically, the Parties seek a seven
 5 (7) day extension of the fact discovery deadline from January 31, 2025 to February 7, 2025, solely to
 6 accommodate deposition scheduling issues. The Parties do not request that any other deadline set forth in
 7 the Fourth CMC Order be modified.

8 **I. CIRCUMSTANCES WHICH SUPPORT THE REQUEST**

9 Since this Court issued its Fourth CMC Order, the Parties have made significant progress in
 10 completing all outstanding depositions. However, the majority of witnesses in this case are third parties,
 11 and many have required significant scheduling accommodation. Despite the Parties’ best efforts, a limited
 12 extension of the discovery deadline is needed to complete the remaining depositions.

13 The Parties have both agreed that Mr. Swanberg’s deposition – the only anticipated party deposition
 14 – should go last due to the important nature of the deposition and the need to complete all other fact
 15 discovery prior to Mr. Swanberg’s deposition. However, due to the numerous scheduling accommodations
 16 necessary for certain outstanding third-party witnesses, the Parties believe that the present fact discovery
 17 deadline of January 31, 2025 is unworkable and requires one additional week in order to allow for the
 18 Parties to complete Mr. Swanberg’s deposition. The Parties agree that the fact discovery deadline can be
 19 modified by one week without moving any of the other deadlines in this case.

20 The Court has “broad discretion in supervising the pretrial phase of litigation.” *Zivkovic v. S. Cal.*
 21 *Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002). Where “good cause” is shown, a court may modify its
 22 Case Management Schedule. *Id.* Such good cause to extend a deadline exists “when the deadline cannot
 23 reasonably be met despite the diligence of the party seeking the extension.” *Johnson v. Mammoth*
 24 *Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992).

25 The Parties respectfully submit that, given the status and scheduling of third party depositions and
 26 the agreed-upon need to complete Mr. Swanberg’s deposition after all outstanding depositions have been
 27 completed, good cause exists to extend the fact discovery cutoff. While the SEC and Mr. Swanberg have
 28 been diligent in their efforts to complete all depositions by the fact discovery deadline in the Fourth CMC

1 Order, additional time is required to depose Mr. Swanberg. This request is made as narrow as possible,
 2 proposing an extension of the fact discovery deadline by one week, and no other deadline in the case.

3 **II. CERTIFICATE OF CONFERRAL AND UNOPPOSED NATURE OF REQUEST**

4 The Parties met and conferred via email on November 11 and November 13, 2024 regarding this
 5 joint motion. The SEC and Mr. Swanberg jointly file this Motion requesting an amended fact discovery
 6 deadline. This new deadline will provide the SEC and Mr. Swanberg with additional time they presently
 7 anticipate will be necessary to complete fact discovery. Accordingly, the SEC and Mr. Swanberg
 8 respectfully request that the Court issue an amended Case Management Schedule pursuant to the proposed
 9 Amended Case Management Schedule set forth below.

10 **III. PROPOSED AMENDED CASE MANAGEMENT SCHEDULE**

11 Pursuant to L.R. 7 and L.R. 16-2(d), the SEC and Mr. Swanberg propose the following continuance
 12 of the Fact Discovery Cutoff given the current status of discovery in his action:

Event	Current Deadline	Proposed Extension
Fact Discovery Cutoff	January 31, 2025 (Friday)	February 7, 2025 (Friday)
Initial Expert Reports and Disclosures	February 21, 2025 (Friday)	<i>No Change</i>
Rebuttal Expert Reports	March 21, 2025 (Friday)	<i>No Change</i>
Expert Discovery Cutoff	April 11, 2025 (Friday)	<i>No Change</i>
Last Day to Hear Dispositive Motions	July 16, 2025 (Wednesday)	<i>No Change</i>
Pretrial Conference	September 22, 2025 (Monday)	<i>No Change</i>
Trial	October 20, 2025 (Monday)	<i>No Change</i>

27 *Signatures Follow*

1 DATED: November 25, 2024

GREENBERG TRAURIG, LLP

2
3 By: /s/ Laura Hammargren

4 William Michael, Jr.
Michael Krauss
Irina Khasin
Laura Hammargren
Natalie F. Wayne

5
6 Attorneys for Defendant Dale Swanberg

7
8 DATED: November 25, 2024

9 SECURITIES AND EXCHANGE COMMISSION

10 By: /s/ Bernard B. Smyth

11 Bernard B. Smyth
12 Sheila E. O'Callaghan
Anthony J. Moreno

13
14 Attorneys for Plaintiff Securities and Exchange Commission

[PROPOSED] ORDER

After full consideration of the SEC’s and Mr. Swanberg’s Joint Motion for Relief from Case Management Schedule and to Amend Case Management Schedule (the “Motion”), and good cause appearing,

IT IS HEREBY ORDERED:

The Fact Discovery Cutoff set forth in the Court's Order dated August 28, 2024 [ECF No. 64] is hereby stricken and the Court adopts the proposed extended deadline as set forth in the Motion and below; with all other deadlines set forth in the Court's August 28th Order to remain unchanged:

1. Fact Discovery Cutoff is February 7, 2025.

DATED:

William H. Orrick
United States District Judge